

# Nelson Mullins

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March 29, 2006

## HAND DELIVERED

Mr. Charles Terreni  
Chief Clerk Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive  
Columbia, SC 29201

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PSC SC  
DOCKETING DEPT.

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COMMISSION

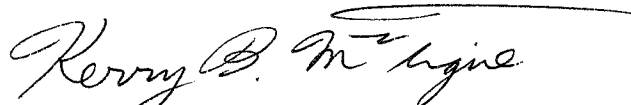
RE: Joint Petition for Arbitration of NewSouth Communications, Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended  
SC Public Service Commission Docket No. 2005-57-C  
Our File No. 00999/03200

Dear Mr. Terreni:

Enclosed please find an original and 16 copies of the Brief of Nelson Mullins Riley & Scarborough LLP in Response to Issues Presented at the March 23, 2006 Hearing in the docket shown above. Please accept the original and 15 copies for filing and return the additional "file-stamped" copy in the enclosed self-addressed, stamped envelope.

Thank you for your assistance with this matter. If you have any questions about this filing, you may reach me at the number shown above.

Very truly yours,

  
Kerry B. McTigue

KBM:mc  
Enclosures

RETURN DATE: 4/24/06 ok  
SERVICE: ok

**BEFORE THE  
SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
DOCKET NO. 2005-57-C**

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**In the Matter of** )  
)  
**Joint Petition for Arbitration of** )  
)  
**NEWSOUTH COMMUNICATIONS CORP.,** )  
**NUVOX COMMUNICATIONS, INC.** )  
**KMC TELECOM V, INC., KMC TELECOM** )  
**III LLC, and XSPEDIUS COMMUNICATIONS,** )  
**LLC on Behalf of its Operating** )  
**Subsidiaries XSPEDIUS MANAGEMENT CO.** )  
**SWITCHED SERVICES, LLC, XSPEDIUS** )  
**MANAGEMENT CO. OF CHARLESTON, LLC,** )  
**XSPEDIUS MANAGEMENT CO. OF** )  
**COLUMBIA, LLC, XSPEDIUS** )  
**MANAGEMENT CO. OF GREENVILLE,** )  
**LLC, and XSPEDIUS MANAGEMENT CO.** )  
**OF SPARTANBURG, LLC** )  
)  
**Of an Interconnection Agreement with** )  
**BellSouth Telecommunications, Inc.** )  
**Pursuant to Section 252(b) of the** )  
**Communications Act of 1934, as** )  
**Amended** )

**BRIEF OF NELSON MULLINS  
RILEY & SCARBOROUGH LLP IN  
RESPONSE TO ISSUES PRESENTED  
AT THE MARCH 23, 2006 HEARING**

The law firm of Nelson Mullins Riley & Scarborough LLP, ("Nelson Mullins") does hereby submit the following memorandum for consideration by the Public Service Commission ("Commission") in response to issues raised during the hearing before the Commission on March 23, 2006 concerning the testimony of Hamilton E. "Bo" Russell.

**ISSUE**

The Commission requested that the parties submit briefs on the issue of whether or not the Commission can certify a question of law to the South Carolina Supreme Court.

**DISCUSSION**

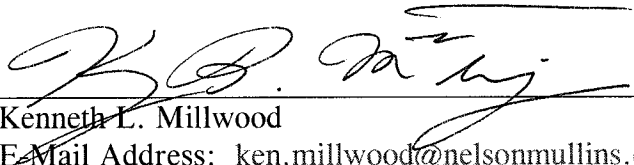
While Nelson Mullins is not a party to this action, the Commission granted Nelson Mullins' request to file a brief on whether or not the Commission can certify a question of law to

the South Carolina Supreme Court. Nelson Mullins is not aware of any express authority that allows the Commission to certify such a question. The Commission's Rules of Practice do not provide for such, and Rule 228 of the South Carolina Appellate Court Rules, addressing certified questions, is narrowly tailored regarding what judicial bodies may submit certified questions to the Supreme Court. The Public Service Commission is not one of the judicial bodies contemplated under Rule 228.

### **CONCLUSION**

It does not appear that the issues raised at the March 23, 2006 hearing before the Commission, concerning the Rules of Professional Conduct, can be resolved by submission of a certified question of law to the South Carolina Supreme Court.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Nelson Mullins Riley & Scarborough LLP and  
Hamilton E. "Bo" Russell

Columbia, South Carolina

March 29, 2006

## CERTIFICATE OF SERVICE

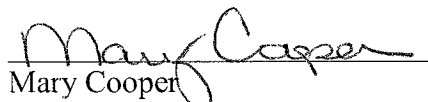
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Nelson Mullins Riley & Scarborough LLP and Hamilton E. "Bo" Russell, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) herein below by hand delivering to the following addresses::

Pleadings: Brief of Nelson Mullins Riley & Scarborough, LLP in Response  
To Issues Presented at the March 23, 2006 Hearing  
(Docket Number: 2005-57-C)

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March 29, 2006

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